

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. 2003-NM-08-AD; Amendment 39-13374; AD 2003-24-05]**

**RIN 2120-AA64**

### **Airworthiness Directives; McDonnell Douglas Model DC-9-31 and DC-9-32 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

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**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-31 and DC-9-32 airplanes. This action requires installation of ceiling panels and a protective pad in the tailcone emergency exit passageway. The actions specified by this AD are intended to prevent people on board the airplane from striking their heads on exposed metal frames in the tailcone area, which could cause injury and delay or impede their evacuation during an emergency. This action is intended to address the identified unsafe condition.

**DATES:** Effective December 16, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 2003.

Comments for inclusion in the Rules Docket must be received on or before January 30, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-08-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-08-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Cheyenne Del Carmen, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627-5338; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** On October 17, 1997, the FAA issued AD 97-22-05, amendment 39-10176 (62 FR 55730, October 28, 1997), applicable to certain McDonnell Douglas Model DC-9-14, DC-9-15, DC-9-15F, DC-9-21, DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-34, DC-9-34F, DC-9-32F (C-9A, C-9B), DC-9-41, and DC-9-51 airplanes, to require modification of the emergency internal release system of the tailcone and the accessory compartment. That action was prompted by a report that, due to failure of the tailcone release system, the tailcone did not deploy on an airplane during an emergency evacuation. The actions specified by that AD are intended to ensure that the emergency internal release system of the tailcone performs its intended function in the event of an emergency evacuation. The requirements of that AD are also intended to prevent people on board the airplane from striking their heads on exposed metal frames in the tailcone area, which could cause injury and delay or impede their evacuation during an emergency.

### **Actions Since Issuance of Previous Rule**

Since the issuance of AD 97-22-05, the FAA was advised that two Model DC-9-31 airplanes with manufacturer's fuselage numbers 1039 and 1046, and two Model DC-9-32 airplanes with manufacturer's fuselage numbers 0268 and 0505, were omitted inadvertently from the effectivity Section 1.A. of McDonnell Douglas DC-9 Service Bulletin 25-331, dated December 10, 1993, which is one of the two service bulletins referenced in AD 97-22-05.

Therefore, we have determined that it is necessary that the modification of the tailcone accessory compartment described in Boeing Service Bulletin DC9-25-331 be accomplished to adequately address the identified unsafe condition (i.e., prevent people on board the airplane from striking their heads on exposed metal frames in the tailcone area, which could cause injury and delay or impede their evacuation during an emergency) on these additional airplanes.

### **Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Service Bulletin DC9-25-331, Revision 02, dated December 10, 2002, which describes procedures for modifying the tailcone accessory compartment.

The modification procedures described in this revision are essentially identical to the procedures in the original issue of the service bulletin, which was referenced in AD 97-22-05 as an appropriate source of service information for accomplishing the required modification of the accessory compartment. However, Revision 02 of the service bulletin adds additional airplanes to the effectivity listing that are subject to the identified unsafe condition. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Accomplishment of the modification of the tailcone accessory compartment specified in AD 97-22-05 is acceptable for compliance with the requirements of this AD.

## **Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent people on board the airplane from striking their heads on exposed metal frames in the tailcone area, which could cause injury and delay or impede their evacuation during an emergency. This AD requires modification of the tailcone accessory compartment. The actions are required to be accomplished in accordance with Boeing Service Bulletin DC9-25-331, Revision 02, dated December 10, 2002.

Since this AD expands the applicability of AD 97-22-05, the FAA has considered a number of factors in determining whether to issue a new AD or to supersede the "old" AD. Although the four additional airplanes included in the applicability of this AD were inadvertently omitted from McDonnell Douglas DC-9 Service Bulletin 25-331, dated December 10, 1993, the other service bulletin referenced in AD 97-22-05 included those additional airplanes in the effectivity. The FAA also has considered the entire fleet size that would be affected by superseding AD 97-22-05 and the consequent workload associated with revising maintenance record entries. In light of this, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to these additional airplanes. This AD would not supersede AD 97-22-05; airplanes listed in the applicability of AD 97-22-05 are required to continue to comply with the requirements of that AD. This AD is a separate AD action, and is applicable only to Boeing Model DC-9-31 airplanes with manufacturer's fuselage numbers 1039 and 1046, and Model DC-9-32 airplanes with manufacturer's fuselage numbers 0268 and 0505; certificated in any category.

## **Cost Impact**

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 10 work hours per airplane classified as Group 1, and 9 work hours per airplane classified as Group 2, to accomplish the modification of the accessory compartment. The average labor rate is \$65 per work hour. Required parts would cost approximately \$8,846 for each Group 1 airplane and \$12,622 for each Group 2 airplane. Based on these figures, the cost impact of the modification of this AD on for this modification would be approximately \$9,496 for Group 1 airplanes, and \$13,207 per airplane classified as Group 2.

## **Determination of Rule's Effective Date**

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

## **Comments Invited**

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments

will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2003-NM-08-AD." The postcard will be date stamped and returned to the commenter.

## **Regulatory Impact**

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

## **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## **Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

# AIRWORTHINESS DIRECTIVE

Aircraft Certification Service  
Washington, DC



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

*We post ADs on the internet at "www.faa.gov"*

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

**2003-24-05 McDonnell Douglas:** Amendment 39-13374. Docket 2003-NM-08-AD.

**Applicability:** Model DC-9-31 airplanes having manufacturer's fuselage numbers 1039 and 1046; and Model DC-9-32 airplanes having manufacturer's fuselage numbers 0268 and 0505; certificated in any category.

**Note 1:** The requirements of this AD become applicable at the time an airplane operating in an all-cargo configuration is converted to a passenger or passenger/cargo configuration.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent people on board the airplane from striking their heads on exposed metal frames in the tailcone area, which could cause injury and delay or impede their evacuation during an emergency, accomplish the following:

## **Modification of the Tailcone Accessory Compartment**

(a) For airplanes having manufacturer's fuselage numbers 0268, 0505, 1039, and 1046: Within 12 months after the effective date of this AD, modify the tailcone accessory compartment; per the Accomplishment Instructions of Boeing Service Bulletin DC9-25-331, Revision 02, dated December 10, 2002.

(b) Modifications accomplished before the effective date of this AD per McDonnell Douglas DC-9 Service Bulletin 25-331, dated December 10, 1993, are acceptable for compliance with the requirements of paragraph (a) of this AD.

## **Credit for Compliance With AD 97-22-05, Amendment 39-10176**

(c) Accomplishment of the modification of the tailcone accessory compartment specified in AD 97-22-05 is acceptable for compliance with the requirements of this AD.

## **Alternative Method of Compliance**

(d) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

## **Incorporation by Reference**

(e) The modification shall be done in accordance with Boeing Service Bulletin DC9-25-331, Revision 02, dated December 10, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

## **Effective Date**

(f) This amendment becomes effective on December 16, 2003.

Issued in Renton, Washington, on November 20, 2003.

Kalene C. Yanamura,  
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. 03-29531 Filed 11-28-03; 8:45 am]  
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